

FOR MYSORE STATE

80,000-4-1-52.

HOME (195 3) Department.

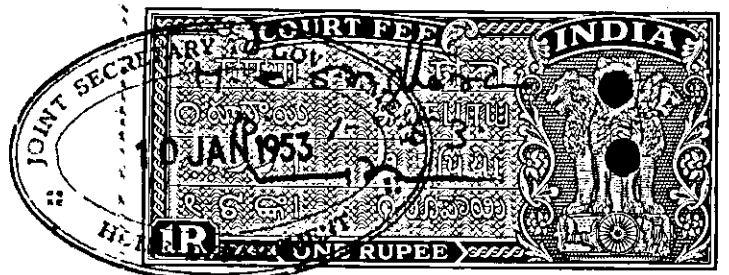
R SERIES.

G.O. NO. 558

Dated 20-2-1953.

Passed
JK

[Despatch Abstract.]



Before the Govt. of Madras

~~In the High Court of Judicature at Madras.~~

Revision Partⁿ No. of 1953.

Against R. No. 52554-A, of 1952. on the file of the ~~Court of~~ Central
Road Traffic Board, Madras.

B. M. Hussan Haje - 17 ordeen
14/s 17 angalore Bus Service, Mangalore
vs.

Appellant.
Petitioner.

17/s Canara Public Conveyance
x am 74 Respondent.

I/We B. M. Hussain Haji Mordeen Appellant
Respondent
Petitioner

in the above ^{Appeal}_{Petition} do hereby appoint and retain

Mr. M.C. Sridharan

Advocate of the High Court, to appear for ^{me}~~me~~ in the above ^{Appeal}~~Petition~~ and to conduct and prosecute (or defend) the same and all proceedings that may be taken in respect of any application connected with the same or any decree or order passed therein including all applications for return of documents or the receipt of any moneys that may be payable to ^{me}~~me~~ in the said ^{Appeal}~~Petition~~, and also in appeals under Section 15 of the Letters Patent and in applications for leave to appeal to The Supreme Court and in applications for review of Judgment.

I certify that the contents of this Vakalat were read out and explained in English in my presence to the executant who appeared perfectly to understand the same and made his, her, their, signature (left-thumb impression) in my presence.

22. auch

Executed before me this 28th day of December 1952.

H. N. Pongani
Advocate
Mangalore

A c c e p t e d

20. श्री अक्षरान

Dated 10 / 1 / 1953

Advocate for Appellant. Respondent. *Pati Chow*

The address of the advocate for service of all notices and processes is at No. 29 Law Chambers, High Court Madras.

S. R. No. *Gow. of Madras*

HIGH-COURT-MADRAS

(Appellate-Side)

DISTRICT

S. Kanara

VAKALAT

IN

Revision No. of 195 3
Petⁿ

Counsel for Appellant
Respondent
Petitioner.

Regional Transport Authority of South Kanara a permit to run a Bus service on the route Puttur to Kurichipalla covering a distance of 31 miles. About a year earlier he was granted another permit to run a bus from Mangalore to Sampaje via B. C. Road, Puttur and Sullia the total distance from Mangalore to Sampaje being 68 miles. This is a highly unremunerative route due to unhealthy competition from the respondents who have a number of vehicles running in this area. It was with a view to make the petitioner a fleet owner by stages and to compensate for the above unremunerative route that the 2nd permit which is the subject-matter of this petition, was granted to him.

2. Against this order the respondents herein filed appeals to the Central Road Traffic Board, Madras. The appeals were posted for hearing on 9--12--1952 as item No.1. Unfortunately the agent of the petitioner who was sent to Madras to engage a lawyer to represent him wrongly informed the lawyer that the appeals were posted for hearing on 10--12--52. This mistake resulted in the appeals being heard and decided ex parte against the petitioner. When this was pointed out to the Central Road Traffic Board on 10--12--52 by the petitioner's Advocate, Mr. S. Obul Reddy the Chairman pleaded inability to review the order as there was no provision for it in the Act. The petitioner's only remedy now is to file this Revision Petition.

3. The first respondent company as found by

the Central Road Traffic Board is the holder of 44 permits in the South Kanara District and that is the reason why it did not appear and press its appeal. The 2nd respondent, The Sankar Vittal Motor Co., Ltd., has 30 permits in the district and as between these two companies they practically monopolised the routes in the District.

4. In spite of this, taking advantage of the petitioner's absence during the hearing of the appeals it was wrongly represented by the Sankar Vittal Motor Co., Ltd., that the petitioner was a Town Bus operator in Mangalore and that he was consequently not favourably situated for the operation of the route Puttur-Kurichipalla lying at a distance of 31 miles. This deliberately false representation made by the 2nd respondent has grievously injured the petitioner and cost him the permit that he obtained from the Regional Transport authority. The present order of the Central Road Traffic Board based on this false representation is therefore unsustainable and has to be set aside. The petitioner does not run any bus service in Mangalore at all.

5. The further representation made by the 2nd respondent that he had a permit to run a bus on the Puttur-Kurichipalla route previously and that during the World War 11 he had to stop operation due to the difficulty caused by the War is also false and misleading. The 2nd respondent had not stopped the running of his bus service on this route during the war and is even today running it. Even

if he had to stop it as alleged now, any promise made by the then foreign Government to restore the route to him after the War is not binding on the present administration. The policy of the present Government is clearly to make fleet owners of persons who hold only one or two permits in the District to operate bus service.

6. All the other new comers in the field of transport have been ^{made} ~~under~~ fleet owners in the district and there is no reason why the petitioner who holds only one permit should not therefore be preferred to the 2nd respondent who already possess as many as 30 permits. The Regional Transport Authority considered this point while granting the permit to the petitioner.

7. The petitioner has, after he was granted the permit by the Regional Transport Authority of South Kanara put on the road a bus at considerable expense and has been running the service efficiently and well. If his license is cancelled now the money that he has invested in the new bus will be a dead waste causing irreparable loss and hardship to him.

8. The object of the 2nd respondent is to try and monopolise all the available routes in the District and then to dictate terms to the public. As an instance the petitioner begs to point out that the respondent-companies who run their buses along the Puttur-Kurichipalla route on their way to places beyond this route was charging Rs.1-3-0

6/ Ms 2473 Amr
(P) 27.5.50

-5-

for 31 miles along the route suddenly reduced their fares to Re.1/- the moment the ~~fiction~~ *petitioner* started operating his bus along this route. Their only object is to drive out all new comers by cut-throat competition.

9. Under these circumstances the petitioner prays that the benign Government may be pleased to call for all the papers relating to this matter from the Regional Transport Authority, South Kanara and the Central Road Traffic Board, Madras and restore the permit wrongly cancelled by the Central Road Traffic Board and to pass such further or other orders as are just and necessary. The petitioner further prays that pending disposal of this Revision Petition the Government may be pleased to stay the operation of the order passed by the Central Road Traffic Board and allow the petitioner to continue the bus service along the Puttur-Kurichipalla route.

Madras,

Dated 10-1-53

H. E. Sridharan

Counsel for Petitioner

Provincial.
Central.

M.T.C. 10.

ORIGINAL

T. A. 218.

P.

Chalan for payment of money into the

Reserve Bank of India at
Imperial Bank of India at

Madras Government
Mangalore

No.

2141

22 DEC 1952

By whom paid and name
or designation) address of the
person on whose behalf money
is paid.

On what account with
authority, if any

Amount.

Head of account

B. M. Hasan Haya
Mubindeen
Mangalore S. K.

appears against
G.T.B. Dec
government - Madras
Total (in words and figures).

RS.

A.

P.

50

50

.

.

.

.

Signature of Remitter.

[Signature]

* Head of account should be filled in by the Departmental Officer or the Treasury. "In cases where direct credits at Bank are permissible the column 'Head of account' will be filled in by the Treasury Officer or the Accounts Officer, as the case may be, for deposit to the Bank's Daily sheet"

CANCELLED

12 JAN 1953

(P.T.O.)

Correct. Receive and grant receipt.

T. & A. 915.

Signature and full name of the officer
order ~~the~~ money to be paid in

10
Reserve Bank of India at
Imperial Bank of India at Madras

The 194 .

} Entered—Correct.

Initials of Treasury Accountant.

Received Rupees

50/ Fifty rupees
Cash
[Signature]

Bank Accountant.

[Signature]
Accountant.

Dated 194

* To be used only when a departmental officer passes the chalan for a payment by a private party.

11

PROCEEDING OF THE MEETING OF THE CENTRAL ROAD TRAFFIC BOARD MADRAS
HELD ON 9.12.1952

Item No.1

Present: Sri P.C.Mathew I.C.S.
Sri T.D.Ramaya Pantulu M.A., B.L.

Chairman.
Member.

R.No.52554-A1/52

Dated 9.12.52.

Sub: APPEAL - Stage Carriages - Route Puttur to Kurchipalla -
Grant of permit to Janab B.M.Hassan Hajee Moideen by the
Regional Transport Authority, South Kanara.

Ref: Petition dated 16.10.52 from the Canara Public Conveyance
Company Limited.

~~Petition dated 31.10.52 from the Shanker Vittal Motor Co.~~
~~Ltd.~~

From the R.T.O.Mangalore No.3285-4/52 dated 30.10.52.

....

O R D E R

In this case, the Regional Transport Authority, South Kanara grant a stage carriage permit on the route Puttur to Kurchiapalli to the respondent in preference to the two appellants. The 1st appellant, the Canara Public Conveyance Co., Ltd., Mangalore and the respondent are absent. The 1st appellant has 44 permits. The 2nd appellant states that he has already been operating on a route of which the present route forms a sector and that he had a permit on this route during the war which had to be discontinued on account of difficulties created by the war. He also points out that the respondent who is a Town Bus operator in Mangalore is not favourably situated for the operation of this route which is 84 miles away. These are important considerations which cannot be over-ruled on the ground that it is desirable to encourage single bus owners. He therefore set aside the order in favour of the respondent and award the permit to the 2nd appellant - Shanker Vittal Motor Co.Ltd. The Regional Transport Officer will issue the permit to him subject to the production of the A.C. of the vehicle within 4 months. The first appellant's appeal is dismissed.

P.C.Mathew,
Chairman.

To
Messrs. Canara Public Conveyance Co., Ltd., Mangalore (para 1 only)
Messrs. The Shanker Vittal Motor Co., Ltd., c/o Sri N.G.Krishna Iyengar,
Advocate, 95, T.P.Keil St., Triplicane, Madras (Para 1 only)
✓ Janab B.M.Hussain Hajee Moideen, Messrs Mangalore Bus Service,
Mangalore (para 1 only)

Regional Transport Officer, Mangalore with (in full with records by R.P.O)

/ By Order /

JVP/21212

G. S. S. S. S. S.
Superintendent.
12.12.52

14/

BEFORE THE GOVERNMENT OF
MADRAS

(Fort St. George)

Rev. Petn. _____ of 1953

B.M. Hassan Haji Moideen
Messrs. Mangalore Bus
Service, Mangalore Petr

- Vs -

1. M/S Canara Public Conveyance Co. Ltd., Mangalore. Respts
2. Messrs. The Sankar Vittal Motor Co. Ltd

Revision Petition under
Sec. 64 A of Motor Vehicles Act.

Enclosures:-

1. Memo of Revision 1
4 Copies
2. Vakalat.
3. Copy of C.R.T.B's order
4. Chellan for payment
Rs 50/- in Govt. Treasury
at Mangalore.

Mr. M.C. Sridharan

Counsel for petitioner

(C. No. 6814 - Tr. II/53.)

1,002-18-12-52.

HOME (TRANSPORT II) DEPARTMENT.

Memorandum No. 6814 Tr. II/53 dated 12-1-1953

Motor vehicles—Stage carriages/goods vehicles—Regional Transport Authority,
South Kanara Route Puttur to Kurchipalla Permit granted by RTA - set
aside by CRTBD -
Revision petition to Government.

Ref.—From Sri B. M. Hussain Hajee Moideen, Mangalore,
revision petition, of 10-1-53

A copy of the petition cited is referred to the Secretary, Central Road Traffic Board, for parawar remarks which should be submitted with the connected records not later than 28th January 1953.

2. A copy of the petition cited is enclosed. Sr/Messrs. Shanker Vittal
Motor Co., Ltd.,
should submit his their representation, if any, against petition before 28-1-1953
failing which it will be presumed that he they has have no representation to make and
orders will be passed accordingly.

3. Pending disposal of the revision petition cited, the operation of the order of the
Central Road Traffic Board, R. No. 52554-A1/52, dated 9-12-52
setting aside the order of the Regional Transport Authority, South Kanara
and granting a the permit on the route Puttur to Kurchipalla
to Sr/Messrs. Shanker Vittal Motor Co., Ltd. is hereby
stayed.

12-1-53 12/1/53

988
12/1/53

To the Secretary, Central Road Traffic Board, Madras-8 (with a copy of pages 3-7 c.f.).

Regional Transport Officer, Mangalore (with a copy of pages 3-7 c.f.)

Sr/Messrs. The Shanker Vittal Motor Co., Ltd., Sri N.G.
Kishna Iyengar, Advocate, 95, T.P. Koil St., Triplicane,
(paras-2-3 only) with

To Sri Hassan Hajee Moideen, M/s. Rangalore Bus Svc., Rangalore
(para 3 only) thru' Sri H.C. Sridharan, Advocate, 29, Law Chambers,
(R.D. 29-1-53). H.C. Madras (Para 3 only) [P.T.O.]

2/16

Note: This is a case in which the R.T.A's

order granting a permit on the route Puthur

of p11g

to Kanchipalla to the pet... was set aside

by the CRT Bd. Stay asked for may be

para 9, p 29

granted in accordance with the existing policy

108

and the case examined after

calling for the connected records and a report etc

Draft mtd report is for approval.

12-1-53

Stay may be granted in accordance
with the existing practice and records
report etc called for

104
1010

108

12/1/53

108

1010

1010

1010

17

TRANSPORT DEPARTMENT

From

K. Hyder Ali Khan, M.A., LL.B. 22 JAN 1953
Regional Transport Officer,
MANGALORE.

To

The Secretary
Central Road Traffic Board
MADRAS. (8).

R.No. 8285/A/52 d/ 17-1-1953

Sir,

Sub: Motor Vehicles - Stage Carriages - Regional Transport Authority, South Kanara - Route Puttur to Kurchipalla Permit granted by the Regional Transport Authority Set aside by the Central Road Traffic Board - Revision petition to Government

Ref: Central Board's proceedings R.No. 52554/A1/52 dated 9-12-1952

11. Government Memorandum No. 6814/Transport II/53-1 dated 12-1-1953

p 11 ante
p 15 ante
p 19 below

A reference is invited to my report R.No. 8633/A/1952 dated 11.11.1952 and Central Road Traffic Board's proceedings referred to above. The Regional Transport Authority, South Kanara granted a permit to Sri B.M.Hassan Hajee Moideen of Mangalore Bus Service to run a service on the Puttur - Kurchipalla route. In appeal the Central Road Traffic Board set aside the decision of the Regional Transport Authority and ordered that the permit should be granted to M/s. Shankar Vittal Motor Co.Ltd., Mangalore. The original grantee has therefore submitted this revision petition to the Government.

My remarks on the revision petition are given below:-

Para 1:- The petitioner is the operator of the only route Mangalore to Sampaje at present. He was granted one more route - the subject matter of appeal and revision, because the Regional Transport Authority considered it desirable to make him a fleet owner at an early opportunity.

Para 2:- No remarks

Para 3:- No remarks

B
Para 4:- The petitioner is not a town bus operator, because the route served by him is a mufassal route; (though) one of the terminal points of which is petitioner's residence and place of business are all in Mangalore town. These are equally applicable to the counter-petitioner.

Para 5:- No remarks

D
Para 6:- If it is not right to help small operators to become fleet owners of atleast a minimum number of buses on the ground that they cannot serve the public interest efficiently and economically, there will be no more chances for any new operator to pursue his avocation in the transport field. The service will be the monopoly of the existing large fleet owners.

Para 7:- The operator put the bus on the route before the expiry of the four months' time granted. This he did at his own risk.

G
Para 8:- There is nothing to prevent an operator to charge a lesser fare, whatever might be the object behind it.

Para 9:- The petitioner has already begun to run the service. As the Central Road Traffic Board's orders have been stayed, the counter-petitioner will not be granted the permit till final orders on the revision petition are passed by Government.

18
- not sent
My office files 5329/A2/51 & containing 200 pages and file 8285/A/5 contain ng 36 pages are submitted herewith.

K. H. D. S. Khan
Regional Transport Officer,
Mangalore.

17/1/53.

Copy submitted to:

Secretary to Government,
Home Department,
Fort St. George,
M A D R A S.

del 18
17/1
AEP/17-1-1953

RECEIVED

20 JAN 1953

Home Dept

Subd for perusal. The report of the and records of the
CRTB & The representation of the respondent
may be awaited (R.D. 29.1.53)

del 18
17/1
29.1.53 27.1.53

del 18
28/1/53

5-8-53

19

Copy of letter R.No. 8633/A/52 dated 11-11-1952 of the Regional Transport Officer, Mangalore to the Secretary, C.R.T.B., Madras

Sub: Appeals - Stage Carriage - Puthur - Kurchipalla route - Permit granted to Janab B.M.Hassan Hajee Moideen, M/s. Magalore Bus Service, Mangalore - appeal by M/s. Shanker Vittal Motor Co. Ltd. - Remarks

Ref: Central Road Traffic Board's Endt. No. 54675/A1/52 d/ 4.11.52
M/s. S.V.M.Co.Ltd. ..

Mangalore Vs. .. Appellant
Janab B.M.Hassan Hajee Moideen,
M/s. Mangalore Bus Service,
Mangalore .. Respondent

In Central Board's proceedings No.-55471/D1/51 dated 27.6.52, the proposal for the opening of a route Puttur to Kurchipalla was approved. Action under Section 57(2) & (3) were taken to grant a permit for one bus on the route. There were seven applicants of whom the R.T.A. selected the respondent for the reasons recorded in the decision dated 3.10.52. An extract from the Agenda with the decision of the R.T.A. is submitted herewith. The notes of the R.T.O is in file 5329/51 submitted with my report R.No. 8285/A/52 dated 30.10.1952 in reply to Central Road Traffic Board's Endt. No. 524554/A1/52 dated 22-10-1952.

My remarks on the appeal memorandum are given below:-

Para 1 - No remarks

Para 2 - It was not the intention that the fact of an applicant being a fleet owner should be treated as a disqualification. But when it was necessary to help small operators to become fleet owners of atleast three buses and to break the monopoly of bus owners on the routes, it was also necessary to refer to the appellant's fleet ownership.

Para 3 - According to the latest orders issued on the subject, and the High Court's orders, the primary consideration regarding the grant of permit is how it will benefit the public interest. In order to make a service beneficial to the public it is necessary to see that it does not become the monopoly of any special operator. It is also necessary to see that every permit holder should be helped in the interest of the public to keep his service efficient. Unless the operator is helped to maintain more than one vehicle this is not possible. The administrative order is that an operator should be made a fleet owner of atleast 3 vehicles, at the earliest opportunity. It is in consonance with the above principle, that the respondent has been chosen for the grant of the permit, which is certainly a choice in the interest of the public. If the appellant now tries to ignore who a fleet owner is, (at present every bus operator knows what its implication is) he only cuts the very ground on which his own status as a bus operator is built.

Para 4 : The principle enunciated in this para was the real guidance of the R.T.A. to select the respondent in preference to the other applicants including the appellant.

Para 5:- No remarks

(P) Para.6 - G.O. No.Ms. 2473/Home/ dated 27.5.50 is only an order for guidance and does not compel the hands of the R.T.A.

J | Para 7:- This is the very reason why the monopoly of the operator should be broken and the permit granted to another.

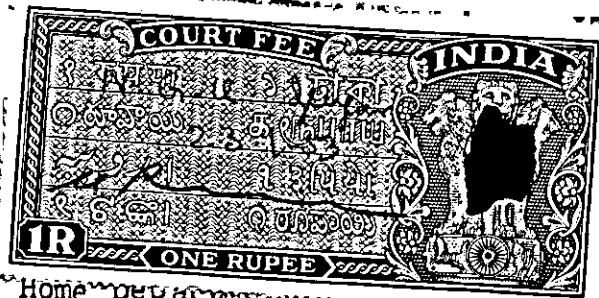
Paras 8 & 9(- No remarks

Extract from the history sheets of the appellant and respondent are submitted.

sd/ x x x

/True copy/

R.T.O., Mangalore(11.11.52)



In the Court of the _____
No. _____

Before the Govt. of Madras, Home Department
Madras.

I/We:

p/s ante

Memorandum No.6814/Transport II/53-1 dated 12-1-53.

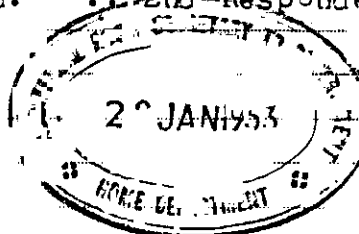
B.M. Hassan Haji Mohideen Petitioner

Vs:

The Shanker Vittal Motor Co.Ltd. 2nd Respondent.

17971

28/1/53



We, The Shanker Vittal Motor Co. Ltd., the 2nd Respondent

do hereby appoint and retain Mr.N.G.Krishna Iyengar, Advocate, Madras, Vakil/Advocate to appear for me/us in the above matter and to conduct and prosecute (or defend) the same and all proceedings that may be taken in respect of any application for execution of any decree or order passed therein. I/we empower my/our Vakil/Advocate to appear in all miscellaneous proceedings in the above suit or matter till all decrees or orders are fully satisfied or adjusted and to obtain the return of documents and draw any moneys that might be payable to me/us in the said suit or matter.

In witness whereof, I/we have hereunto set my/our hand this 20th day of Jan. 19453.

For THE SHANKER VITTAL MOTOR CO. LTD.
C. N. M. R.
Managing Director.

Accepted.

M. Krishna Iyengar.

Date 23 Jan 19453.

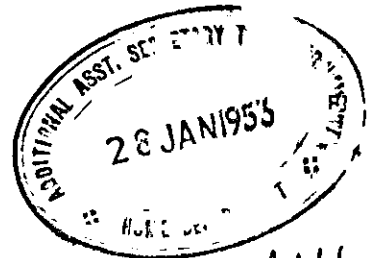
~~XXX~~/Advocate, for 2nd Respt.

The address for service of the said Counsel is at No.95, T.P.Koil St. Triplicane, Madras.

~~XXXXXX~~

Signed before me by the executant this _____ day of _____ 194 _____, the contents hereof having been read over to the executant in _____ and admitted to be correct.

[Signature]
Principal Counsel
Sengam



Before the Government of Madras, Home Department,
Fort St. George, Madras.

Add to file &
report
27-1-53

p 15 ante

Memorandum No. 6814/Transport II/53-1 dated 12-1-1953.

B.M. Hassan Haji Mohideen Petitioner

Vs:

The Shanker Vittal Motor Co., Ltd. .. 2nd Respondent.

Representations on behalf of the 2nd Respt.abovenamed.

1. This Respondent at the outset desires to point out that there is not even any allegation in the Revision petition that the order of the Central Road Traffic Board is - illegal; irregular or improper, and therefore the Government cannot interfere under Section 64-A of the Motor Vehicles Act.

2. Due notice of the date of hearing of the appeal filed by this Respondent against the Petitioner herein was admittedly given. The notice clearly mentions the date of hearing as - 9-12-1952 (Tuesday) and there can be no mistake about it. In fact, what is alleged as a cause for the non-appearance of the Petitioner or his Counsel on 9-12-1952 is that the agent who was sent to Madras to engage a lawyer to represent the Petitioner wrongly informed the lawyer that the appeals were posted for hearing on 10-12-1952. Why the agent should have made that wrong representation or conveyed the wrong information to the Counsel engaged has not been stated. Presumably such an excuse is now put forward for the purpose of getting the order of the Central Road Traffic Board set aside under some pretext or other. There has been wilful and deliberate non-appearance on the part of the Petitioner realising perhaps that the case of the Respondent was much stronger and could not easily be overcome.

3. The main and substantial reason as to why the permit for the route Puttur to Kurchipala was granted to this Respondent

24

- 2 -

not in file

by the Central Road Traffic Board on appeal is that undoubtedly and indisputably it is Respondent who^{was}/~~is~~ running a bus MDX 419 on the particular route in question under Permit No.PSP/85/1940 granted by the then Road Traffic Board, South Kanara, valid from 25-12-1940 to 25-12-1941. This permit was however subsequently renewed up to 25-12-1944. Before the date of the expiry of the renewed permit, the conditions created by the Second World War forced the - Transport Authorities to make some arrangements by reducing the number of buses running on several routes with a view to conserve petrol, tyres etc. The Respondent was therefore directed to stop the bus which was running on this route. On-representations made by some of the - transport operators who were obliged to withdraw bus services from routes on account of conditions created by the Second World War, the Government was pleased to issue a - general direction under Section 43-A of the Motor Vehicles Act in G.O.MS.No. 2473 Home dated 27-5-1950 directing the Regional Transport Authorities to give as far as possible preference to old operators who were running on those routes for which permits ~~had~~ are to be granted. This G.O. ~~was~~ issued by the Government has been held to be valid in Writ Petition No.116 of 1952. Though it was represented before the Regional Transport Authority, South Kanara, that this Respondent is entitled to be restored to the position which it occupied before the War in so far as this route is concerned, the Regional Transport Authority had not given any consideration and apply the Order of the Government quoted above. The Regional Transport Authority obviously felt - that because this Respondent is a large fleet-owner, the - Order of the Government can be justifiably ignored without

not put up

-8-

(P)

giving any consideration whatsoever. The Respondent was therefore obliged to agitate the matter on appeal and the Central Road Traffic Board, for the reasons stated in the order, had granted the permit to the Respondent, giving as a reason therefor the preferential claim to which this Respondent is entitled under the terms of the General Direction given by the Government in G.O.MS. 2473 Home, dated 27-5-1950. All that the Central Board has done in the present case is to give full and complete effect to the General Order of the Government and it cannot in any way be suggested that the action of the ~~Central~~ Central Board is illegal, irregular or improper even.

4. This Respondent states that the Petitioner was not a transport operator when the Second World War was going on. He never knew and cannot be expected to know on what routes this Respondent was operating during the War. He has therefore chosen to make a deliberate mis-representation in paragraph 5 of the Revision petition that this Respondent had not stopped running bus service on this route during the War and that he is even to-day running it. This is an absolutely untrue statement and is not based upon any data or other information. The permit held by this Respondent for this route was produced before the Central Road Traffic Board and this Respondent is even now prepared to produce the same for verification if necessary.

5. This Respondent is running a bus between Mangalore and Kurchipala (via) Puttur which covers the entire route now under consideration. The Petitioner has presumably mistaken this through bus between Mangalore and Kurchipalla while has chosen to state that this Respondent is even to-day running between Puttur and Kurchipalla. Whatever the mistake may be, this Respondent asserts that he is not running any service between Puttur and Kurchipalla exclusively.

pp. 5-6 ante

(P)

6. The further allegation in paragraph 5 of the Revision petition that any promise made by the then foreign government to restore the route to him after the War is not binding upon the present administration, has also proceeded upon a misapprehension. The G.O. in question referred to above was passed after the foreign government went out and in fact it was passed by the present Government after fully realising that there is full justice in restoring the permits for routes on which operators were running during the War and from which they were obliged to withdraw by reasons beyond their control. There is therefore no point in the Petitioner saying that the promise to restore the permits^{was} made by the foreign government. Obviously the Petitioner does not know by which Government G.O.MS.2473 Home dated 27-5-1950 was passed. The General Order is couched in more or less mandatory terms giving no option to the Regional Transport Authority in the matter of restoration of the old permits. The Central Board being subordinate to the Government and being obliged to follow all general directions given under Section 43-A of the Motor Vehicles Act has properly given effect to that Order by giving the permit to this Respondent. The policy referred to by the Petitioner to grant permits to persons who hold one or two permits so as to make them fleet-owners, is nowhere laid down as such. There is no general direction to that effect. On the other hand, it has been held that there is no statutory ban on fleet-owners being granted fresh permits. The only consideration to be taken into account in the matter of granting stage carriage permits is the interests of the public generally, and applying that test there can be no doubt or question that this Respondent is in a better position to serve the public interests than the Petitioner. This Respondent has got a well-equipped workshop at Mangalore Town and at Puttur also, whereas the Petitioner

- 5 -

has no such facilities anywhere in the South Kanara District. Further, the Respondent is operating a bus between Mangalore and Kurchipalla (via) Puttur which covers the entire route now under consideration and he alone will be able to give better facilities to the travelling public, as he has many spare buses with permits. The Petitioner has no spare bus permit and even on the route on which he is running he is not able to make any substitute arrangements ~~for~~ when the route bus has to be stopped for fitness certificate etc. Even during the short ~~period~~ when the Petitioner was actually in the transport field he had to - stop the bus on several occasions for doing repairs and the - route was left vacant without any substitute arrangements being made.. Also the permit which the Petitioner has was suspended for a week for over-loading and the period of suspension has - been undergone. This fact also establishes that the Petitioner cannot be trusted to serve the interests of the public.

H-3-4 anti

7. The allegation in paragraph 1 of the Revision petition that the Petitioner's existing route Mangalore to Sampagi covering a distance of 68 miles is unremunerative is wholly - baseless. There has been no unhealthy competition either from this Respondent or from the other persons who are running on - the route. The allegation that it was with a view to compensate for the above unremunerative route that the second permit was granted to him is not correct. The Regional Transport - Authority has nowhere stated that the permit was granted to - the Petitioner to compensate for any unremunerative route.~~is~~ It has been held by the High Court in Writ Petition No.333 of 1951 that the fact of a route being unremunerative is not a relevant or valid one. - Nor are the Transport Authorities - constituted for the purpose of giving compensations to permit-holders for unremunerative routes. Therefore even if the - Regional Transport Authority had in mind that the Petitioner - should be compensated for the already existing unremunerative

28/
- 6 -
route. Even then the decision is illegal and has necessarily to be set aside.

W4-5 ante
8. The allegations in paragraph 3 of the Revision -
petition are not at all relevant and material. The fact
that this Respondent has 30 permits in the District is not
a disqualification for the grant of this permit. On the
other hand, it should be held that it is a necessary quali-
fication as he alone will be able to serve the public inte-
rests better than the Petitioner who is ^{having} only one bus and who
has no other spare bus permit in his favour.

p5 ante
9. This Respondent did not make any deliberately false
representation as mischievously alleged in paragraph 4 of -
the Revision petition. Obviously the Petitioner was not -
present at the time of the hearing of the appeal either by
himself or by any lawyer and it is not open to him to say -
that any false representation was deliberately made on be-
half of this Respondent. The Central Road Traffic Board
had all the materials before it including the Report of -
the Regional Transport Officer, and on the materials avail-
able it came to the conclusion that this Respondent will be
able to serve the interests of the public better than the
Petitioner and awarded the permit accordingly, taking into
consideration the fact that the Respondent was already opera-
ting on the route and was obliged to withdraw the bus on ac-
count of the conditions created by the war.

p6 ante
10. The allegations in paragraph 6 of the Revision
petition that all the other new-comers in the field of -
transport have ^{been} made fleet-owners in the District and on that
ground the Petitioner too must be made a fleet-owner, cannot
stand scrutiny. There is no rule of law that every single
bus operator must be given two more permits, whatever may be
his past conduct as a transport operator. The conduct of -

- 7 -

the Petitioner as a single bus operator has not been very satisfactory judged from the recent suspension of permit for over-loading. The refusal of this permit to him will certainly be a reasonable restriction in the interests of the public as overloading is admittedly detrimental to public interests.

11. This Respondent submits that the Petitioner cannot base any claim for the permit on the fact that he has spent money for purchasing a vehicle and putting it on the road. The vehicle which the Petitioner has put on the road after the permit was granted to him is a second-hand vehicle which may not cost more than Rs.7,000/-. The allegation that he has invested considerable amount in the new bus is not therefore correct.

12. This Respondent takes strong objection to the allegation in paragraph 8 of the Revision petition. It is not the intention of this Respondent to monopolise all the routes in the District and then dictate terms to the public. This Respondent's request is only to put him in the position which he occupied before the war and which position he had to lose by reasons beyond his control. The Government fully realised the justice in such a claim and therefore - passed a General Order. The instance referred to by the - Petitioner that the Respondent Companies were charging - Re.1-3-0 between Puttur and Kurchipalla and that the fare has been reduced to Re.1/- the moment the Petitioner started operating his bus along this route, is not based upon facts. Even the Petitioner is charging Re.1-3-0 between Puttur and Kurchipalla. No operator is charging Re.1/- for that route. This mischievously ~~is~~ false allegation has been made for the purpose of gaining the advantage of getting the permit restored to him. This Respondent has no object to drive all new-

comers

pp. 6-7, ante

- 8 -

by cut-throat competition. To indulge in competition will also be ruinous to the Respondent himself and - nobody can be expected to cause ruin to himself, especially in these days when the cost of operation is - rising every day.

13. The Petitioner is having his headquarters at Mangalore, and Puttur is more than 30 miles from Mangalore. In the nature of things it is not possible for the Petitioner to run a regular or efficient service - between Puttur and Kurchipalla, as he is far away from the route in question and cannot be expected to have - any effective control and check over the route now in - question. This aspect of the matter also was considered by the Central Road Traffic Board.

14. For all these reasons, this Respondent submits that no case has been made out for interference by the Government with the order of the Central Road Traffic Board and prays that the Government may be - pleased to dismiss the Revision petition at a very early date.

Dated at Madras this 23rd day of January, 1953.

Dr. Krishna Sengar.
Counsel for Respondent 2.

Home department

Submitted for perusal of the representation
 of the respondent at pp 23-30 ante. The
 report and records from the C.R.T. Bd. ✓
 may be awaited. (R.D. 10-2-53)

✓
 reminded
 today.

S. M.
 30-1-53. 31/1/53.

✓

YBS
 2/2/53

32

Before the Govt. of Madras,
Home Dept. Fort St. George,
M a d r a s.

Memorandum No.6814/Transport II/
53-1 dated 12-1-53.

B.M.Hassan Haji Mohideen ..Petr

Vs:

The Shanker Vittal Motor
Co. Ltd. .. 2nd Respt.

C3

Representations on behalf
of the 2nd Respt. herein.

Mr.N.G.KRISHNA IYENGAR,
Counsel for 2nd Respt.

Home department

Submitted for perusal of the representation
of the respondent at pp 23-30 ante. The
report and records from the C.R.T. Bd. ✓
may be awaited. (R.D. 10-2-53)

✓
reminded
today.

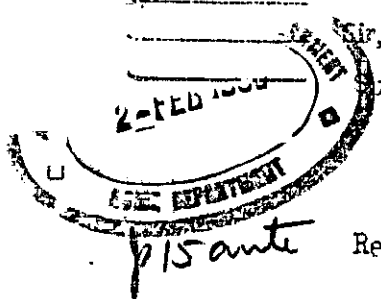
B. M.
30-1-53. 31/1/53.

✓

YB8
2/2/53

Department		Received	Registered
From (Name)	Jawahar Sri Syed Ahmed, I.A.S.,	To	
Designation	Secretary, Central Road Traffic Board,	The Secretary to Government, Home Department, Madras. (with encl.)	
Station	Egmore, Madras.		

Enclosures : No. 2752/A1/53 dated 31-1-53. 195 .



Sub: Motor Vehicles - Stage Carriages - Route Puttur to Kurchipalla - Permit granted by the Regional Transport Authority set aside by the Central Road Traffic Board - Revision petition to Government - report submitted.

Ref: Government Memo.No.6814/Tr.II/53-1 Home d/12-1-53.

At its meeting held on 3-10-52 the Regional Transport Authority, South Kanara granted a stage carriage to the petitioner on the route Puttur to Kurchipalla. On appeal, the grant was set aside and the permit was granted to the Respondent for the reasons recorded in the Board's Proceedings at p.45 of the file enclosed. The revision petition is against this appellate order of the Board. The following para-wise remarks are submitted on the petition.

Paras 1-3: Call for no remarks.

Para 4: It is not correct to contend that the Board's order is based on the false representations made by the Respondent in the absence of the petitioner. The Board was satisfied that the Respondent was favourably situated for the operation of this route and that the claims of the petitioner are not in any way superior to those of the Respondent.

Para 5: G.O.Ms.No.2473 Home d/27-5-50 referred to is still in force and the arguments in this regard are therefore not acceptable. In his appeal petition, the Respondent had categorically stated that he was operating a bus on this very same route but had to discontinue the service on account of conditions created by war. This has not been denied by the Regional Transport Officer also in his report on the appeal petition.

Para 6: The petitioner cannot claim an overriding preference simply because he is having only one permit and other new entrants had become fleet owners. His claims can be considered only for routes which are favourably situated for him for efficient operation.

Para 7: The fact that the petitioner has purchased a bus and placed it on the route is not a sufficient ground for confirming the order of the R.T.A.

Para 8: The report of the Regional Transport Officer at page 43 of the file shows that there are other operators also operating on sectors of this route. The question of absolute monopoly does not arise and if the respondent collects excess fare suitable action can be always taken against him. The permit in question cannot be denied to him on this account.

Para 9: Calls for no remarks.

The connected records of the Board R.No.52554/52 (48 pages) are enclosed for perusal and return.

[Signature]
for Secretary. 31/1

SS/31/1/2
5/1/1/2

[Signature]

G.O. R. No. 558

dated 20.2.53

M.Vs. - Stage carriages - R.T.A., South Kanara - Route Puttur to Kurchipalla - Permit granted by R.T.A., - Set aside by C.R.T. Board - Revision petition to Govt. - Rejected.

- Read: (1) From Sri B.M. Hussan Haji Moideen, revision petition d/10.1.53.
(2) From ~~M/S~~ Shankar Vittal Motor Co., Ltd., representation, d/23.1.53.
(3) From the Secy., C.R.T. Bd., No.2752/A1/53 d/31.1.53.

ORDER:

The R.T.A., South Kanara, at its meeting held on 3.10.1952, granted a pucca stage carriage permit on the route Puttur to Kurchipalla to Sri B.M. Hassan Hajee Moideen. On appeal, the C.R.T. Bd. at its meeting held on 9.12.52, set aside the order of the R.T.A. granting the permit to Sri B.M. Hassan Hajee Moideen and awarded it to M/S. the Shankar Vittal Motor Co., Ltd.. Against this order the petitioner has come up to the Government in revision.

2. The Govt. have examined the case with ref. to the connected records, the history sheets of the operators and the representation of Shankar Vittal Motor Co., Ltd.

In the appellate order of the C.R.T. Board in R.No.52554/A1/52 d/9.12.52 it is stated that ~~the petr.~~ Sri B.M. Hassan Hajee Moideen is a Town Bus operator in Mangalore not favourably situated for the operation of this route which is thirty-one miles away. The R.T.A. has reported that ~~he~~ ^{petitioner} is not a Town service operator and that the route served by him is a mufassal route. The statement of the C.R.T. Board relying on the ~~wrong~~ representation of M/S. Shankar Vittal Motor Co., that Sri B.M. Hassan Hajee Moideen is a Town Bus operator is therefore ~~an error apparent on the face of the record~~ ^{not correct}. Govt. however do not consider it necessary to set aside the order of the C.R.T. Board referred to above on this ground.

17/20/53

W 3-74

W 23-30 of

p 334

W 79 (T)

W 45, ibid

W 33-36 ibid (T)

W 23-30 of

W 11 of

B, p 17 of

A, p 5 of

36

The respondent had a permit for the route which was withdrawn due to conditions created by the war and the C.R.T. Board selected him in granting fresh permits on the route. The only point in favour of the petitioner is that he is a single bus operator but his route is nowhere near the route under revision.

A. p6 ny

B. ih'd

Gout. consider that

the respondent who is already operating on a portion of the route in question would render ~~service~~ ^{service} more efficient and the grant of permit to him is therefore in the interests of the public. The Governor of Madras ~~The Governor of Madras~~ therefore declines to interfere.

3. The stay ordered in Memo.6814 Tr.II/53-1

Home, d/12.1.53 is hereby vacated

pl 53
22.2.53

19.2.53

19.2.53

To the Secy., C.R.T. Bd.
(with records at (T))
To the R.T.O., Mangalore
To Sri B. Hussan Haji
Moideen, through Sri M.C.
Sridharan, Advocate,
No.20, Law Chambers, 5c
High Court Bldgs., Madras.
To Messrs. Shanker Vittal Motor
Co. Ltd.,
thru' Sri N. G. Krishna Rao
95, T.P. Koil Street,
Triplicane, Madras.
(copy for R.T.O.)

M.Vs. - Stage carriages - R.T.A., South Kanara -
Route Puttur to Kurchipalla - Permit granted by R.T.A.
Set aside by C.R.T.Bd. - Revision petition to Govt.

From Sri B.M.Hussan Haji Moideen, revision petition,
dated 10.1.1953.

(Issued as Memo.No.6814-Tr.II/53-1, Home, d/12.1.53)

From the Shankar Vittal Motor Co., Ltd., representa-
tion, dated 23.1.53:

From the Secy., C.R.T.Bd., No.2752/A1/53, d/31.1.53.

--

Abstract of the case.

District:	South Kanara
Route:	Puttur to Kurchipalla
Order of R.T.A.	Granted permit to Sri B.M. Hussan Haji Moideen.
Order of C.R.T.Bd.	Set aside the R.T.A.'s order and granted the permit to the Shankar Vittal Motor Co., Ltd.
Petition before Govt.	From Sri B.M.Hussain Haji Moideen to set aside the C.R.T.Bd's order ~~and for interim stay.~~

--

This is a case of revision petition against the
appellate order of the C.R.T.Bd. at p.11 c.f. The peti-
tion is in time and the prescribed fee of Rs.50/- has been
paid. The connected records of the C.R.T.Bd. are at (T)
and the remarks of the R.T.O., Bangalore and the Secy.,
C.R.T.Bd. are at pp.17-18 and 33 c.f. ^{respectively}. The representation
of the respondent is at pp.23-30 c.f. Pending disposal
of the case stay has been granted. The period of limita-
tion expired on 12.1.1953. ~~and the case may now be examined~~
There is no sketch of the route either in the records at
The facts of the case are as follows:

2. The R.T.A., South Kanara, at its meeting held
on 3.10.52 considered the question of grant of a pucca
stage carriage permit ~~for one bus~~ on the route Puttur to
Kurchipalla. There were seven applicants. The R.T.A.
granted the permit to Sri B.M.Hassan Hajee Moideen as he
is a single bus operator and should be encouraged to
become a fleet-owner. Against this order, Messrs.The
Sanara Public Conveyance Ltd. and the Shankar Vittal Motor
Co., Ltd. appealed to the C.R.T.Bd. The Central Board, a

H 3-7 cf.

p 15 cf

H 23-30 cf

p 33 cf

H 7 of (T)

p 45 in id

para 9, p 7 cf

H 3-7 cf

p 15 cf

(T) or in the c.f.

H 7 of (T)

id id

2
its meeting held on 9.12.52, set aside the order of the R.T.A. granting the permit to Sri B.M.Hassan H.Moideen and awarded it to the Shankar Vittal Motor Co., Ltd. It is against this order that the petitioner has come up to the Govt. in revision.

p457 ⑦

3.(i) The petr. contends that owing to his agent wrongly informing his lawyer that the appeal was posted to ~~on~~ 10.12.52 which resulted in the appeal being disposed of ^{on 9.12.52} ex-parte and that when his lawyer represented the case to the C.R.T.Bd., the Chairman, C.R.T.Bd. pleaded inability to review the order as there was no provision for it in the M.V.Act.

para 2, p457

In the case disposed of in W.P.No.346 of 1951, as the High Court was not satisfied that the notice of appeal before the C.R.T.Bd. was served on the petr, it considered that in the interests of justice, it was necessary that another opportunity should be given to the petr. to make his representations before the C.R.T.Bd. In this case, however, no such non-delivery or non-receipt of notice is alleged but it is admitted that the absence of the petr. was purely due to the lawyer being misinformed by the petr's agent. In the circumstances it does not appear that the C.R.T.Bd. was at fault. ~~And the petr. cannot advance this plea for remanding the case to the C.R.T.Bd. for re-hearing.~~

(conceded by.
put up in
C.P.No. 237 of 1952)

138

(ii) ~~(a)~~ The petr. also contends that the respondent has 30 permits in the district and that as between the respondent and the Canara Public Conveyance Co. they practically monopolise the routes in the district.

para 3, p457-58.

It is seen from ^{X and Z} p.43 of (T) that the respondent, ~~has~~ ^{Shankar Vittal Motor Co. Ltd. have} permits for 28 buses whereas the Canara Public Conveyance Co. has permits for 53 buses.

X, p457 ⑦

= ibid

(iii) ~~(b)~~ The petr. further contends that the respondent ~~has~~ wrongly misinformed the C.R.T.Bd. that the petr. was a Town Service operator and that he was not favourably situated for the operation of the route in question lying

para 4, p457

at a distance of 31 miles.

The C.R.T.Bd. has stated that it is not correct to contend that the Bd's order was based on the false representations made by the respondent in the absence of the petr. and that the Bd. was satisfied that the respondent was favourably situated for the operation of this route and that the claims of the petr. are not in any way superior to those of the respondent.

The R.T.O. has stated that the petr. is not a Town Service operator, that the route served by him is a mufassal route, that one of the terminal points of that route is the petitioner's residence and place of business which is Mangalore Town and that these considerations apply equally to the respondent.

(iv) The petr. has alleged that the representation made by the respondent ~~that~~ that he had a permit to run a bus on the route in question previously, that during the World War II he had to stop operation due to the war conditions etc. are all false and misleading. He states that the respondent had not stopped the running of the bus on this route and is even to-day running it, and that even if there had been any promise to issue permits to those who stopped their services due to war conditions, such a promise is not binding now.

The C.R.T.Bd. has stated that G.O.Ms.No.2473, Home, dated 27.5.50 referred to by the petr. is still in force and ^{that} the arguments in this regard are therefore not acceptable. In his appeal petition, the respondent had categorically stated that he was operating a bus on this very same route but had to discontinue the service on account of conditions created by war. This has not been denied by the R.T.O. also in his report on the appeal petition.

~~It may however be mentioned that the petitioner's statement appears to be correct, whatever the categor~~

A. p 33 y.

B. p 17 y

kanas, H-5-6 y

(P)

C. p 33 y

4
~~categorical assertion of the respondent may be in his appeal petition.~~ It is seen from the report of the R.T.O. at p.43 of (T) that the respondent is actually running a bus service on the route Mangalore - Puttur - Kurchipalla which overlaps the entire route under revision.

(v) It is claimed that all the other new comers in the field of passenger transport in the district have been given three permits and more and that is why the R.T.A. selected the ~~xxx~~ petitioner in order to make him an economic fleet owner by stages.

para 6, p 64

The R.T.O. has stated that if it is not right to help small operators to become fleet owners of at least a minimum ^{number} ~~per~~ of buses on the ground that they cannot serve the public interest efficiently and economically, there ~~is~~ will be no more chances for any new operator to pursue his avocation in the transport field and that the service will become the monopoly of existing large fleet operators.

D, p 174

The C.R.T.Bd. has stated that the petr. cannot claim an overriding preference simply because he is having only one permit and other new entrants had become fleet owners. His claims can be considered only for routes which are favourably situated for him for efficient operation.

E, p 334

(vi) ^{by the petr.} It is urged that he has ~~a~~ put a bus on the route at considerable cost and that he would be hard-hit if the permit were now denied to him.

para 7, p 64

This contention is not tenable as the operator, if he puts the vehicle before the four months' time, naturally runs the risk of losing the permit in appeal or in revision. This ground cannot advance the claim of the petr. The C.R.T.Bd. has stated that the fact that the petr. has purchased a bus and placed it on the route is not a sufficient ground for confirming the order of the R.T.A.

F, p 334

para 8, Hrb-7y

G, p17y

H, p33y

h7y (D)

cp p11y

cp p43y (T)

shid

J, p19y

cp p11y

(vii) It is alleged that the respondent had hitherto been charging Rs.1.3.0, that as soon as the petr. put the bus on the route he reduced the fare to Re.1/- which would show that the respondent is trying to oust all other operators by cut-throat competition.
^{The R.T.O. has stated that}
 There is nothing to prevent an operator to charge a lesser fare, whatever might be the object behind it. The Board has stated that there are other operators also operating on sectors of this route, that the question of absolute monopoly does not arise and ^{that,} if the respondent collects excess fare, suitable action can ~~be~~ ^{be} always taken against him. It is stated that the permit in question cannot be denied to ^{the respondent} ~~him~~ on this account.

4. The R.T.A. granted the permit to the petitioner as he is a single bus operator and ~~denied it to~~ ^{rejected} the respondent's ^{appln.} as he is a big fleet owner. The C.R.T.Bd. set aside the R.T.A.'s order and granted the permit to the respondent for the reasons that he ^{has been} ~~is already~~ operating on a route of which the present route forms a sector, that ^{previously} he had a permit on this route, which, due to war conditions, had to be discontinued ^{that} and the petr. is a town bus operator in Mangalore not favourably situated for the operation of this route which is 31 miles away. The distance of the route in question is 31 miles of which a distance of 9 miles from Vittal to Puttur is ^{covered} ~~overlapped~~ by three route buses of Messrs. Canara Public Conveyance Co., Ltd. ~~On the other hand~~ the entire route under revision forms ^a ~~part of a~~ sector of the route Mangalore to Kurchipalli ^{via Puttur} operated by the respondent. It would appear therefore that ~~the~~ apart from the fact that M/s. C.P.C. Ltd. is operating on a sector of the route, the respondent has monopoly on the entire route and the R.T.O. in his report has stated that it is for this very reason that the monopoly should be broken that the permit was granted to the petr. It is also seen that the statement of the C.R.T.Bd. relying on the wrong representation of the respondent that the petr. is a town bus operator would be termed an error apparent on face of the record. ~~etc.~~

5. In the circumstances it is for orders

(1) whether the revision petition will be rejected and stay vacated; or

(2) whether the revision petition will be allowed and the R.T.A.'s order restored.

6. May be circulated to M.(I. & L.)

6.2.53
7/2/53

A Since the respondent had a permit for the route, which was withdrawn due to conditions created by the war he has to be shown some preference in granting fresh permits on the route. Therefore the Central Bds order cannot be considered as improper or error on the face of the Central Bds order may be pointed out, but the Central Bds order may be confirmed and the revision petition rejected.

cp. p 11 of

in id.

cp. A, p 5 above

8/2/53
js

The only point in favour of the petitioner is that he is a single Bus operator. But his route is too where near the route under revision. The respondent is entitled to preference in view of the instructions issued in the G.O. at (P). He can render service more efficiently as he is already operating on this route & has work up facility.

cp p 15 of (P)

Petition Rejected
RTTB's decision
upheld.

The petition may be rejected.

W. Hanumanth Rao

U. Krishna Rao
U (222) 13²/53

draft subd.
19.2.53
19.2.1953

9-2-53

(Issued as ho. R. No. 558 Home D. 2-2-53) 14.35-31.41

